

Kevin G. Holmes

04/11/2005

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UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

----- X
TRANS-SPEC TRUCK SERVICE, INC.,
d/b/a TRUCK SERVICE,

Plaintiff,

vs.

Civil Action No.
04-CV-11836-RCL

CATERPILLAR, INC.,

Defendant.

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DEPOSITION OF KEVIN G. HOLMES

Monday, April 11, 2005, 9:00 a.m.

Tri State Trucking Center, Inc.

411 Hartford Turnpike

Shrewsbury, Massachusetts 01545

Reporter: Deborah L. Maren, RPR

LegalLink Boston

320 Congress Street, Boston, MA 02210

(617) 542-3500

LegalLink Boston
(800) 822-3376

EXHIBIT

tabbles

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1 Q. But you'd seen this happen in other of
2 Trans-Spec's Sterling trucks that they've brought in
3 with the Caterpillar C-12 engines?

4 A. Yes.

5 Q. On the next page, on 580 of this packet,
6 can you describe for me the four photographs that you
7 see there and what they represent.

8 A. Again, similarly, we have the same damage,
9 cracked flywheel housings, as we did in the prior
10 pictures.

11 Q. Have you ever seen anything routinely like
12 this before the Trans-Spec C-12?

13 A. Routinely, no, we have not.

14 Q. So this is an abnormality to see bell
15 housings in this condition?

16 MR. GRUNERT: Object to the form.

17 A. In the number of failures, yes, that is
18 correct.

19 Q. And is this a complete failure? Or can
20 this be repaired in any way? Or is this --

21 A. No. This is actually detrimental to the
22 vehicle's operation.

23 Q. This would cause widespread problems to the
24 rest of the engine and the rest of the truck?

1 MR. GRUNERT: Object to the form.

2 A. Absolutely.

3 Q. What kind of damage would that cause to the
4 truck?

5 MR. GRUNERT: Object to the form.

6 A. Actually, it could cause transmission
7 damage. It could cause drivetrain vibration. Again,
8 this -- this piece of the engine obviously has to have a
9 specific pitch and angle to it so obviously it follows
10 the same angle throughout the driveline. And if not,
11 you can create other problems throughout the vehicle as
12 well.

13 Q. So these failures aren't confined to a
14 simple replacement of the piece; they actually do cause
15 other damage both to the engine and other components?

16 MR. GRUNERT: Object to the form.

17 A. Yes, it may. That's correct.

18 MR. GRUNERT: Could you give me a minute to
19 state my objection? It's hard for the stenographer to
20 take down two people at once.

21 Did you get the objection to that question?

22 MR. SAMITO: I'm sure we're all getting your
23 objections.

24 Q. You can continue answering.

1 A. And, as I stated, this actually can cause
2 other problems within the vehicle's drivetrain, cab, et
3 cetera.

4 Q. What sort of specific damage could this
5 cause?

6 MR. GRUNERT: Object.

7 A. Again, through vibration it can loosen
8 components much earlier than the norm just through,
9 again, the vehicle not -- the engine not having its
10 proper balance and creating other problems.

11 Q. Looking at 581 of this exhibit, what do you
12 see there? There's only one picture on this. What do
13 you see there?

14 A. Again, I see the engine flywheel housing
15 cracked. And, again, that is cracked as many of the
16 others that I have viewed here at the dealership as well
17 as in the pictures.

18 Q. Complete failure?

19 A. Yes.

20 Q. And 582?

21 A. 582 again is a single picture, again,
22 having the same failure of a cracked bell housing and,
23 again, leading from the flywheel housing mounting bolts
24 out to the housing itself.

1 A. Al Cardoza has been giving us specifics as
2 to what he requests us to do with these engines.

3 Q. What have those specifics been? What has
4 he been telling you to do with the engines?

5 A. Either replace the flywheel housing or
6 repair the front engine cover leaks.

7 Q. How would you repair the front engine cover
8 leaks? Has he been giving you specifics to repair it?
9 Or is there just a set procedure for doing so?

10 A. Actually, there are set procedures that are
11 obviously there. And obviously we have to follow those.

12 Q. Has he been telling you to patch any of the
13 engines or flywheel housings or flywheel housing bolts
14 or any components?

15 A. There was a unit here, yes, that was
16 patched.

17 Q. Is patching sufficient for these types of
18 problems that you've been seeing in Trans-Spec's C-12
19 engines?

20 MR. GRUNERT: Object to the form.

21 A. Unfortunately so, not in the engine that
22 was here, no.

23 Q. Do you know why Al Cardoza told you to
24 simply patch the engine?

1 A. Specifically, no, I don't. Obviously, I'm⁸¹
2 sure, from a cost standpoint, yes.

3 Q. Was it obvious that patching wouldn't be
4 sufficient to make this repair on this engine?

5 A. For the vehicle's longevity, yes.

6 Q. Why?

7 A. Because a piece of the engine block was
8 broken.

9 Q. How did Al Cardoza tell Tri State to patch
10 the engine block?

11 A. He said to put the piece back on and epoxy
12 it.

13 Q. How long did it last? Do you know?

14 A. Unfortunately so, I don't know that now. I
15 believe that's, you know, a vehicle that has not been
16 back here so I would not know that.

17 Q. Did you or -- do you know if the person who
18 was dealing with this particular engine from Tri State,
19 did that person voice any concern with Al Cardoza
20 regarding the insufficiency of that patching?

21 A. I believe there were pictures taken and
22 all, yes.

23 Q. Do you have those pictures?

24 A. Unfortunately so, I don't personally. But

1 I do believe there is a disk, yes.

2 Q. Okay. You said that cost consideration was
3 a factor, you thought, in that decision. Could you
4 explain what you meant by that?

5 A. Again, an engine bell housing or flywheel
6 housing repair would be in the vicinity of maybe \$3,000,
7 \$3500 between parts and labor, as opposed to an engine
8 replacement which would be in excess of \$20,000.

9 Q. How much would patching cost?

10 A. Again, the patching would encompass --
11 probably be about that 32 to \$3500.

12 Q. Okay. From what you've seen, is there a
13 permanent fix for Trans-Spec's types of problems with
14 the engines?

15 MR. GRUNERT: Object to the form and competence.

16 A. Other than replacement, as I mentioned
17 earlier, no.

18 Q. Okay. Does Caterpillar ever authorize a
19 dealer such as Tri State to make a repair pursuant to a
20 warranty and then subsequently refuse to pay it?

21 A. Yes.

22 Q. Could you tell me about that.

23 A. Actually, we've -- we have had claims that
24 we have been authorized to perform and we do get charged